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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re S.F. et al., Persons Coming Under the
Juvenile Court Law.

B207424
(Los Angeles County
Super. Ct. No. CK71477)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.F. et al.,

Defendants and Appellants.

APPEALS from an order of the Superior Court of Los Angeles County. Marilyn Martinez, Juvenile Court Referee. Affirmed.

Darlene Azevedo Kelly, under appointment by the Court of Appeal, for Defendant and Appellant A.F.

Linda Rehm, under appointment by the Court of Appeal, for Defendant and Appellant M.F.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County Counsel, and Byron G. Shibata, Associate County Counsel, for Plaintiff and Respondent.

A.F. (Mother) and M.F., Sr. (Father), challenge an April 23, 2008 dispositional order removing their three teenage children from their custody and placing them in foster care. Because the order is supported by substantial evidence, we affirm.

BACKGROUND

Beginning in 2005, the Los Angeles County Department of Children and Family Services (DCFS) began receiving referrals of physical and emotional abuse of the children involved in this appeal: S.F. (born in July 1993; referred to as Daughter), I.F. (a son born in August 1994) and M.F. (the youngest son, born in August 1995; referred to as Son). Seventeen-year-old Allen F., parents' oldest son, is not involved in this proceeding as he had left home for a Job Corps program in September 2007 when he was 16. According to Daughter, I.F., and Son, their parents had directed them to lie to the social workers investigating the previous referrals and told the children that "they would see what would happen if they validated any allegations as made by their brother [Allen]." The children, out of fear and loyalty to their parents, lied to the investigators. The referrals before November 2007 were determined to be unfounded or inconclusive.

Because of Daughter's problems at school, she received school-based individual psychotherapy treatment from April 2007 to January 2008. In November 2007, Daughter, who had previously expressed a desire to attempt suicide, was hospitalized after she attempted suicide. Her parents took her out of the hospital against the doctor's advice and minimized the need for Daughter to obtain medical attention. Daughter again attempted suicide in December 2007 when she was at school. On December 12, 2007, DCFS opened a voluntary family maintenance case to help the family with Daughter's problem. On January 3, 2008, DCFS received another referral alleging physical abuse of Daughter by Father. On January 9, 2008, DCFS held a meeting, attended by Daughter and her parents. Although the parents maintained that they did not need help, disagreed with the social workers, and accused the children of being manipulated by the social workers, schools, the police, and their peers, the parents accepted voluntary family maintenance services, agreeing to attend parenting classes, individual therapy, and family

therapy. Parents also agreed to ensure that Daughter receive therapy and mental health services.

On January 24, 2008, a social worker visited the family's home to discuss the case plan. Father interrupted the social worker and yelled at her in the children's presence for 40 minutes, stating that DCFS "ruins children" and that if he punished his children it was because they deserved it for misbehaving and to prevent his children from becoming "gangsters or losers." Father claimed that his children were failures and that DCFS "corrupts children because they feel that they are being protected by somebody and so they do whatever they want." Father also said that Daughter "likes to manipulate people by cutting herself, so she's depressed because we are strict, that's just a way of manipulating people because she wants attention."

Mother told Father to be quiet and to listen to the social worker, but Father pushed Mother's arm, telling her that she should not tell him to be quiet. When the social worker asked to talk to each child individually, Mother agreed, but Father accused the social worker of trying to brainwash the children.

I.F. told the social worker that his parents were very strict and believed that children needed to be "on a short leash." The children were not allowed to do anything and could not go outside; Father thought that everybody was out to get him and his family. Father yelled "everyday," especially at Mother. According to I.F., his parents used to engage in domestic violence and used to hit the children, but the parents had not done so in a while.

Daughter told the social worker that she used to get good grades in school, but she was then failing all of her classes; she felt that it did not matter how she performed or behaved because "my parents still think that I am a bad child." She admitted to misbehaving to get back at her parents, who did not allow the children to talk to their neighbors or to stay after school for tutoring. Mother also was estranged from her relatives because of Father. Daughter stated that the parents had not hit the children in about three months because they knew they were being watched by the social workers. Father did not want the family being watched by social workers and her parents would be

upset when the social worker left the home. Her parents probably would “ask us things about what you said, because we are not supposed to tell what goes on in the home.” When the social worker asked Daughter about her tattoo, she said that she got the tattoo to make her parents mad; when they found out about the tattoo, ““I ended up at the hospital for cutting myself. I got lucky that I was in the hospital or else [my parents] would have beaten me up.’” Daughter also related that there was more violence in the home when Allen lived there and that Mother “used to hit him until he bled.”

Son also told the social worker that Mother used to hit them but had not done so in a while. Son had a good relationship with Father and claimed that it was Mother who yelled the most, not Father. Daughter and I.F. were the ones who were ““always getting in trouble with my parents for nothing.’”

To check on the welfare of the children after the January 24 visit, the social worker visited the children at their schools on January 25, 2008. Son told the social worker that he felt safe at home because there was a social worker monitoring the home. But like his oldest brother, he wanted to leave home when he turned 16. He related an incident when Mother hit Allen with a broomstick and made him bleed; now Allen did not like to come home very much.

Daughter also told the social worker that she felt safe at home as long as a social worker was involved and that her parents were ““very tricky.’” According to Daughter, when Allen lived at home, Mother would withhold food from him as punishment and the other children would sneak food for Allen. She felt guilty about denying the abuse of Allen when the social workers came out to investigate prior referrals and felt bad because now I.F. stated that he did not want to live either. Daughter told I.F. not to hurt himself like she had. As to her self-mutilation, Daughter stated, ““I just do it whenever I feel I can’t take it, living my life anymore.’” She also disclosed prior recent incidents of physical and emotional abuse: (1) In November 2007, Father pushed her against a wall and tried choking her because she was talking to neighbors whom Father considered to be “druggies.” (2) Mother slapped Daughter’s face in front of school staff and her friends.

(3) Six months ago, Father tied her down while Mother hit her. (4) Her parents called her a prostitute because her shirt was too tight for their expectations.

When the social worker told Daughter that DCFS was going to remove the children from parents' home, she responded that she was fine with that because her parents needed help. But Daughter did not want her parents to know what she had divulged because her parents would be angry with her.

After the social worker picked up I.F. and Son from school, Son and Daughter started crying. I.F. consoled Son, telling him that they would be "okay" and that the parents needed help and "maybe this way they will learn their lesson, and not treat us like they do." The assistant principal at the boys' school told the social worker that he had known the family for years and that Father was "very aggressive" and had yelled at him and at teachers when Father did not agree with the school system. Father also yelled at his children in the presence of others. The assistant principal remarked, "I am surprised [Father] hasn't gotten arrested. We have threatened him by telling him that we are going to call the cops, but [Father was not] scared of authority and will yell at anybody."

On January 25, 2008, the children were placed together in a foster home from which they all ran away the next day. The children were located on January 28; Daughter was placed in one foster home and the two boys were placed together in another foster home. The January 30, 2008 detention report stated that Mother said that she agreed with the placement of the children in foster care, but planned to sue DCFS because the children ran away from their first foster home. According to Mother, only she and not Father would be communicating with DCFS staff because Mother believed that Father created more problems for the family. On January 30, 2008, the juvenile court ordered the children detained in foster care and monitored visitation for the parents.

After Daughter cut her wrist on February 3, 2008, her foster mother brought her to the hospital for psychiatric care; Daughter was hospitalized until February 11, 2008. While hospitalized, Daughter told hospital staff that her parents had physically abused her and that she was staying with foster parents; she became more depressed and attempted to kill herself by cutting her wrist. Daughter was prescribed Zoloft in the

hospital but was noncompliant; she said that she had been prescribed medication but her mom had not given it to her. Daughter also told hospital staff that she had problems with physical and emotional abuse in her foster home and that her foster mother told her that medications were bad.

In February 2008, the parents enrolled in parenting classes. In connection with the February 22, 2008 jurisdiction/disposition report, a social worker interviewed the children and the parents on February 13 and 14. Daughter said that there was an incident about a year ago when Mother was hitting her with a hanger; Daughter ran to the bathroom, but Father came into the bathroom, grabbed her by the neck, took her to the living room, and held her on the floor. According to Daughter, she was “just defending myself.” Daughter admitted that in another incident in July 2007, she was visiting with adult male neighbors against Father’s orders; Father saw Daughter and told her, “you look like a prostitute.” Mother related that when Daughter dressed inappropriately, she and Father would remark that only street people dress like that and Daughter was not from the streets. According to Daughter, Mother would tell the children “to die, and that she should have aborted us, that she should have thrown us in the dumpster.”

Daughter also reported that Mother would hit Son with a belt or a hanger and that it was “an everyday thing,” and “we always had bruises.” The last time Mother hit I.F. was two weeks before a DCFS investigator came to their home in November 2007.

According to Mother, when Daughter came out of the neighbors’ apartment, Father told her to go home and “tapped her on the back in the direction of our apartment.” Later that evening, the family was at a parenting class where Daughter reported that she was afraid to be with her parents because Father had grabbed her by the neck and tried to choke her. A police officer showed up to check for marks or bruises and did not find anything; Daughter said that she had exaggerated. Father stated, “I merely pushed her towards the direction of our apartment. I never grabbed her by the neck, or pushed her against the wall. I never tied her down. It is false.”

In February 2008, I.F. said that about a year before, Mother and Daughter were arguing; Mother slapped Daughter and Daughter got mad and was “going crazy,”

swinging at everyone; Father grabbed Daughter to calm her down, and “[i]t may have seemed like they were tying her down, but she was being restrained. She kept kicking.” I.F. also said that his parents usually punished them by smacking them “on the butt,” but when it was “something serious, they use the belt.” After she would hit them, Mother would apologize and say she did not mean to hit them too hard; Mother would then put ice or ointment on their bodies.

Son did not remember Mother hitting Daughter, but he remembered that his parents “tried to tie [Daughter] up with a belt.” Son also admitted that his parents did “smack” them, which he demonstrated as a slap to the head with an open hand. As to whether Mother used a belt to hit Daughter, Son responded, “once, I don’t remember. I forgot.” Son also said that once or twice Father used a belt to hit Daughter.

Both I.F. and Son reported that Mother hit or smacked them and hit them with a belt. Son said that his parents started acting differently after the social workers began coming to their home. Mother admitted using an open hand to spank the children on their buttocks or backs, but denied hitting them or ever leaving any marks; she denied striking them with any objects.

With respect to Mother’s hitting Allen with a broom and drawing blood, Daughter claimed that it was no accident and that Mother was trying to hurt him. According to Son, it was not Mother’s fault, and Mother and Allen were struggling and wrestling with the broom when it broke and cut Allen. I.F. reported that Mother and Allen were arguing when Mother grabbed the broom and hit Allen; the broom broke and cut Allen’s shoulder, but Mother did not mean to cut him. Mother claimed that the broomstick incident was an accident and occurred when she used the broom to block Allen from leaving the home; the broom broke and accidentally cut his shoulder.

On March 7, 2008, Daughter ran away from school and went home; Mother contacted the foster mother and returned Daughter to her placement. In mid-March 2008, Daughter became upset when her foster mother refused to let her go to the mall because she had an appointment with her therapist. Daughter cut herself and she again was hospitalized and provided with suicide precautions as well as medication. Her discharge

diagnosis was bipolar disorder. Before Daughter was hospitalized, she left a telephone message with the DCFS social worker stating that she had lied about everything during her interview. After she was discharged on March 19, she told the social worker that she was homesick and that she cut herself because she wanted to go home. Also in March 2008, Son and I.F. were placed in the home of the paternal aunt.

The adjudication and disposition hearings were held over the course of several days in March and April 2008. Mother, Father, Daughter and Son testified. I.F. did not testify.

Mother denied that she ever slapped, berated, or hit her children; she denied telling the social worker that she hit her children. Mother denied seeing Father ever choke, hit, slap or physically restrain Daughter; on one occasion, Father forcibly prevented Daughter from leaving home by grabbing her as if he were hugging her. Mother also denied that Father yelled at the social worker in January 2008 but admitted that Father spoke loudly. Mother claimed that the broomstick incident with Allen was an accident.

According to Father, it was not his or Mother's fault that his children were rebellious, but because the children were exposed to bad influences. Father denied that he ever yelled and denied being angry when Daughter disobeyed him and went to the neighbor's apartment. He also denied pushing Daughter against a wall and choking her. Father related an incident when Daughter wanted to leave late one night to walk alone to the gym; Mother grabbed Daughter's hand, so Daughter pushed Mother down; Father hugged Daughter to prevent her from moving her arms and to calm her down. Daughter was angry and cried, but then she calmed down. Father denied ever seeing Mother hit or slap Son. Father admitted taking Daughter out of the hospital in November 2007 against the doctor's advice. Father claimed that the children lied to the social worker when they said that their parents withheld food from Allen as a form of discipline.

Daughter cried at three points during her testimony. Daughter claimed that she had lied to the social workers about being abused by her parents because a social worker promised that the children would have better material things in foster care, such as clothes, shoes, and a nice house. Daughter denied that Mother slapped her and hit her

brothers. She also lied when she said that Father pushed her against a wall and choked her because she was angry at her parents. Daughter explained that she has a bipolar disorder and gets angry at her parents, who were strict and did not let her go out with her friends as often as she wanted and who put her into a program at school that she hated. Daughter said that she told her brothers to lie to the social workers and claimed that Son lied when he said that her parents tied her up with a belt. But Daughter admitted that at the time she reported that Father choked her, no promises had been made by the social worker to induce her to make the allegations. She also admitted that she was tired of living in foster care and wanted to go home.

Daughter further explained that she was recanting her earlier allegations because “I just felt guilty ’cause I’ve been putting my mom into problems and it’s actually my fault.” She also said that she thought “that my parents were just going to get classes. And I thought that they were adults and they could just deal with it. . . . [¶] . . . They could deal with the consequences that I said, the things I said about them. . . . [¶] . . . Everything would go well. I guess [I thought] we’d be on vacation for a little bit and then come back and then we’ll see how it’s like to have material things.”

Son also recanted his previous allegations of abuse by his parents and claimed that his sister put the idea into his head that by lying they would be able to live in a better home; she told him to lie on the day the social worker came to their home in January 2008. According to Son, it was Daughter’s idea to run away from their first foster home. Son admitted that his parents did not understand teenagers and that they needed counseling. He also related that his parents cried during visits and were suffering without their children.

The juvenile court found that Mother struck both I.F. and Son, Father tied Daughter down while Mother struck her, Mother slapped daughter’s face, Father pushed Daughter against a wall and choked her, and Mother hit Allen with a broomstick and caused him to bleed. Based on the foregoing findings, the court sustained an amended petition declaring the children dependents under Welfare and Institutions Code section 300, subdivisions (a) (serious physical harm), (b) (failure to protect), and (j) (abuse of

sibling).¹ Daughter was also declared a dependent under section 300, subdivision (c) (serious emotional damage), based on the parents' calling her derogatory and demeaning names.

In explaining its ruling and commenting on the evidence, the court stated: "It's clear to the court that these parents . . . are very concerned about their children. Particularly their children's obedience. These parents don't want their children to become delinquents nor drop outs. . . . However, [their] parenting style is so overbearing. So unbending and so abusive, that the result is the extreme conflict. Conflict which has caused these children to lie." As to the children's recantation, the court stated, "Any time children recant, the court is faced with an especially difficult decision. . . . [¶] The home atmosphere created by these parents has been so controlling and has resulted in upheaval and altercations and great risk for physical abuse as well as emotional abuse." "The children recant because they say they were greedy. They wanted more material things that they thought they could get at a foster home. This is not credible weighed against all the other evidence that the court has. What is most likely and credible is that these children lied [in court], if these children lied regarding physical abuse if it didn't occur, the lies were to extricate themselves from an oppressive, dysfunctional family situation. [¶] . . . And so I am giving great weight and greater weight to the children's statements before they testified and only two of them testified. The statements before testimony with the three children are clear, detailed, consistent not only amongst the children but each [person] to whom the child made disclosures and this is what substantiates the allegations by the preponderance of the evidence and I give less weight to the recantation by [Daughter] and [Son]."

As to disposition, the court found by clear and convincing evidence that a substantial danger existed to the children's health and there were no reasonable means to protect them without removing them from parental custody. The court pointed out that

¹ Unspecified statutory references are to the Welfare and Institutions Code.

DCFS had been working with the parents before the petition was filed under a voluntary maintenance agreement and that reasonable efforts had been made to preclude removal.

The parents were afforded monitored visits and ordered to participate in individual counseling, a parenting class for parents of teenage children, and family counseling with the children. Each parent appeals, challenging the sufficiency of the evidence supporting removal of the children from their custody.

DISCUSSION

“At the disposition hearing the court may enter an order ranging from dismissal of the petition (§ 390; [Cal. Rules of Court, rule 5.695(a)(1)]) to declaring dependency, removing physical custody from the parents and making a general placement order for the child (§ 361; [Cal. Rules of Court, rule 5.695(a)(7)]).” (*In re Summer H.* (2006) 139 Cal.App.4th 1315, 1324.)

“Section 361, subdivision (c) provides that a child may not be removed from the parent’s physical custody during dependency proceedings, except for a temporary detention period, unless clear and convincing evidence supports a ground for removal specified by the Legislature. Removal on any ground not involving parental consent, abandonment or institutionalization requires a finding, by clear and convincing evidence, there is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child if the child were returned home, and there are no reasonable means of protecting the child without depriving the parent of custody.” (*In re V.F.* (2007) 157 Cal.App.4th 962, 969, fn. 5.)

We review a dispositional order removing a child from parental custody for substantial evidence. (*In re Henry V.* (2004) 119 Cal.App.4th 522, 529.)

Substantial evidence supports the juvenile court’s findings that (1) returning the children home posed a substantial danger to their health and safety and (2) there were no reasonable means of protecting the children without removal from parental custody. The juvenile court found credible the statements made by the children to the social workers and Daughter’s statements to medical personnel and rejected their recantations at the jurisdictional and dispositional hearings. Consequently, the court could have reasonably

rejected the parents' testimony. Having disbelieved the parents' testimony, the court could have reasonably inferred either that the parents were in denial about their physical and emotional abuse of the children and its effect on the children or that the parents were willing to manipulate the proceedings for their benefit and not the benefit of their children. Whether the parents were in denial or were attempting to manipulate the children, the evidence supports the conclusion that the parents were not willing to place their children's well-being above their own interests, even when two of those children had expressed suicidal thoughts. Thus, substantial evidence supports the finding that a return of the children to parental custody posed a substantial danger to their health and safety.

Substantial evidence also supports the juvenile court's finding that there were no reasonable lesser means of protecting the children without removal from parental custody. As noted by the court, at a home visit during the voluntary services period in January 2008, Father yelled at the social worker and accused DCFS of corrupting his children. Notwithstanding the parents' enrollment in parenting classes in February 2008, the parents denied any physical or emotional abuse of their children at the time of the contested hearing and failed to take any responsibility for their children's problems, minimizing those problems and blaming the children's rebellious behaviors on bad influences in society. The juvenile court could have reasonably inferred from the evidence that the parents were not sincerely open to changing their behavior and that the provision of more family maintenance services would not be adequate to protect the children from future physical or emotional abuse.

Our conclusion is supported by *In re Mariah T.* (2008) 159 Cal.App.4th 428. In that case, the mother whipped her three-year-old son with a belt, causing bruises, and disbelieved her eight-year-old daughter's allegations of sexual abuse by the mother's boyfriend. The Court of Appeal upheld removal of the children from the mother's custody, reasoning, "As to the allegations based on [the] mother's use of a belt to punish the children, there was also sufficient evidence that lesser measures would not have worked. [The mother] had denied or minimized what she had done, refused to believe

that [her boyfriend] had fondled Mariah, and threatened to keep [the] father away if Mariah told anyone what [the boyfriend] did. The court was therefore free to reject [the] mother's claim that she would no longer use corporal punishment, and could therefore find that removing the children from [the] mother's custody was necessary on that ground as well." (*Id.*, at p. 441.) Similarly, the juvenile court here could have reasonably rejected the parents' testimony denying any abuse and claiming that they disciplined the children not with physical force but by removing privileges. The parents' denial or minimizing of what they had done is sufficient to support the inference that measures short of removal would not work.

Because of the foregoing circumstances, this case is distinguishable from a case cited by parents, *In re Jasmine G.* (2000) 82 Cal.App.4th 282. In *Jasmine G.*, the Court of Appeal reversed a dispositional order because there was insufficient evidence to support removal of a teenage daughter from strict parents who had used corporal punishment. But, unlike the circumstances here, in *Jasmine G.*, "[b]oth parents had forsworn corporal punishment of teenagers. Both expressed remorse for having used corporal punishment on Jasmine. Both had attended parenting classes, and both had undergone therapy to improve their parenting skills. Jasmine had no fear of either. One therapist opined it was totally safe to return the child and the other simply had 'no recommendation'" (*Id.*, at pp. 288–289.)

Having concluded that removal from parental custody was necessary for protection of the children, the juvenile court necessarily rejected other statutory dispositional options suggested by the parents, including dismissal of the dependency case and return of the children to the parents under court-ordered supervision. The record does not support the parents' claim that the juvenile court failed to consider all options and to consider the effect of placement of the children in foster care. We also reject the parents' claim that the children were better off at home under court supervision than in foster care. The juvenile court impliedly rejected such a finding, and its rejection is supported by substantial evidence.

DISPOSITION

The dispositional order is affirmed.

NOT TO BE PUBLISHED.

MALLANO, P. J.

We concur:

ROTHSCHILD, J.

BAUER, J.*

* Judge of the Orange County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.